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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 Mary Jolley,

7 Plaintiff,

8 v.

9 USAA Casualty Insurance Company,

10 Defendant.

Case No. 2:21-cv-02178-RFB-DJA

11
12 **Order**

13 Defendant USAA Casualty Insurance Company has moved to extend the time to respond
14 to Plaintiff Mary Jolley's complaint. (ECF No. 11). Plaintiff did not file a response. Defendant
15 explains that it has filed a partial motion to dismiss and thus, its obligation to answer Plaintiff's
16 claims not addressed in the motion to dismiss is tolled by Federal Rule of Civil Procedure
17 12(a)(4)(A).

18 Under Federal Rule of Civil Procedure 12(a)(4)(A), if a party files a motion to dismiss
19 under Rule 12, the responsive pleading deadline is tolled until 14 days after the court has rendered
20 its decision on the motion. *See* Fed. R. Civ. P. 12(a)(4)(A); *see Talbot v. Sentinel Ins. Co., Ltd.*,
21 No. 2:11-cv-01766-KJD-CWH, 2012 WL 1068763, at *5 (D. Nev. Mar. 29, 2012). This Court
22 has extended this rule to instances where a party has filed a partial motion to dismiss. *See Talbot*,
23 2012 WL 1068763, at *5. However, the Court in *Talbot* noted that tolling the time for a
24 responsive pleading does not result in a stay of discovery. *See id.* Additionally, under Local Rule
25 7-2(d), the failure of a party to file points and authorities in response to any motion constitutes a
26 consent to the granting of the motion. LR 7-2(d).


27 Tolling the responsive pleading time is appropriate under the circumstances and the
28 Federal Rules. Additionally, Plaintiff has not responded to the motion, constituting her consent to
this Court granting it. The Court thus grants the motion to extend, tolling the responsive pleading

1 deadline until fourteen days after the Court's disposition of the motion to dismiss. However,
2 discovery is not stayed. Plaintiff must initiate the 26(f) conference and the parties are directed to
3 file their stipulated discovery plan and scheduling order within fourteen days. The Court finds
4 these matters properly resolved without a hearing. LR 78-1.

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6 **IT IS THEREFORE ORDERED** that Defendant's motion to extend time (ECF No. 11)
7 is **granted**.

8 **IT IS FURTHER ORDERED** that Plaintiff shall initiate the 26(f) conference and the
9 parties shall submit a stipulated discovery plan and scheduling order by **Monday, February 14,**
10 **2022.**

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12 DATED: February 1, 2022

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15 DANIEL J. ALBREGTS
16 UNITED STATES MAGISTRATE JUDGE
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